



**DEPARTMENT OF THE TREASURY**

**INTERNAL REVENUE SERVICE**

**TE/GE: EO Examination**

**1100 Commerce**

**Dallas, Texas 75242**

501.03-00

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**Date:** June 9, 2010

Release Number: 201037032

Release Date: 9/17/10

**LEGEND**

ORG = Organization name

XX = Date Address = address

**ORG**

**ADDRESS**

**Employer Identification Number:**

**Person to Contact/ID Number:**

**Contact Numbers:**

Voice:

Fax:

**LAST DATE FOR FILING A PETITION**

**WITH THE TAX COURT: September 7, 20XX**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Internal Revenue Code Section 6001 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

You failed to keep the required records and you did not file annual information returns.

Your organization has gone out of business. No income is being received and no charitable purpose is being served.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501 (c)(3) -1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit of declaratory judgment in the United States Tax Court, the United States Claims Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

You also have the right to contact the office of the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate office located nearest you by calling (504) 558-3001 or by writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can, however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions in regards to this matter please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations

Internal Revenue Service  
Tax Exempt and Government Entities Division  
MS:4957:DAL:DC  
1100 Commerce St.  
Dallas, TX 75242

Department of the Treasury

Date: December 1, 2009

ORG  
ADDRESS

Taxpayer Identification Number:  
Form:  
Tax Year(s) Ended:  
December 31, 20XX  
Person to Contact/ID Number:  
Contact Telephone Number:  
Contact Fax Number:

CERTIFIED MAIL - RETURN RECEIPT  
REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate

cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Acting Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer ORG		Year/Period Ended 20XX12

LEGEND

ORG = Organization name  
1<sup>st</sup> Director

XX = Date

President = president

DIR-1 =

### Issue under Consideration

Should the tax-exempt status of ORG ("ORG") as granted by Internal Revenue Code section 501(c)(3) be revoked?

### Facts

ORG was granted tax exemption under Internal Revenue Code section 501(c)(3) as a charitable organization under IRC 509(a)(2) from a letter from the Internal Revenue Service dated July 21, 20XX.

The Articles of Incorporation for the organization state that it is organized exclusively for charitable, educational, religious or scientific purposes within the meaning of Section 501(c)(3) of the IRC. The primary purpose is to educate, promote, and assist in obtaining government or any other benefits to assist citizens over the age of fifty or handicapped citizens of any age.

The co-founder of the organization reports that it owns no assets, has declared bankruptcy and has been dormant for several years. He further reports that the organization has no employees and does not maintain a place of business. It has never filed a form 990 during its six years of existence.

Agent has repeatedly attempted to contact the organization and finally succeeded in obtaining a return phone call from one of the co-founders, President. President reports that from the inception of the organization, they were unable to attract sufficient funds to pursue their exempt purpose and that efforts to do so have ceased. There are no employees or volunteers, no fund raising efforts and no beneficiaries of this organization. The organization has not provided Articles of Dissolution.

This office corresponded with President and DIR-1 regarding the proposed audit of the subject organization. In response to the phone conversation with Revenue Agent, President was advised in a letter dated May 20, 20XX to write to this office to indicate his plans to either voluntarily terminate the existence of the organization or to be subject to Revocation of the exempt status of the organization. A copy of the May 20, 20XX letter is attached for your review.

As of December 2, 20XX, this office has not received any communication on this matter. As the organization has taken no steps to voluntarily terminate its existence, this office is proceeding with revocation of the organization's tax exemption. If the revocation of ORG is sustained, it would then be required to file forms 1120 as of the

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer <b>ORG</b>		Year/Period Ended 20XX12

date of revocation. Taxable revenues to be reported on form 1120 would include revenues from bingo during 20XX in the amount of \$ as reported to this office by the State of

### **Law and Argument**

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of any exempt purposes.

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(3), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer ORG		Year/Period Ended 20XX12

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. § 1.6033-2(i)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

### **Government's Position**

Based upon the above stated facts, the organization is no longer a viable entity. No income is being received and no charitable purpose is being served by the organization; therefore, the organization no longer meets the requirements of Internal Revenue Code section 501(c)(3) and Income Tax Regulations 1.501(c)(3)-1(c)(1). ORG Director DIR-1 was informed in Agent's letter of May 20, 20XX (attached) of the necessary steps to dissolve the organization; however this office has not received this information.

### **Organization's Position**

President spoke with Agent upon receipt of the May 20 letter and related the failure of the organization to attract sufficient funds to pursue the organization's mission. It appears that from his perspective, the organization has already failed and gone out of existence.

### **Conclusion**

Based upon the information noted above, it is proposed that the exempt status of the organization be revoked as of January 1, 20XX.

All remaining assets of an organization exempt under Internal Revenue Code section 501(c)(3) are required to be distributed to another public charity per Income Tax Regulation 1.501(c)(3)-1(b)(4). If no net assets remain, proof of insolvency should be provided.

If revocation is sustained, then ORG would be required to file form 1120 for each year beginning on the date of revocation. Bingo revenues as well as any other revenue earned during each year would be reported and taxed on form 1120.